

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF LIBERTY GAS COMPANY	)	
<hr/>	)	
ALLEGED FAILURE TO COMPLY	)	CASE NO.
WITH KRS 278.495 AND 49 C.F.R. PART 192	)	2017-00053
	)	

ORDER

On March 7, 2017, the City of Liberty ("City" or "Liberty") filed a motion requesting to schedule an informal conference in this case for the purpose of simplifying and clarifying issues to be presented at the March 29, 2017 hearing in this matter and to discuss the possibility of settlement. Liberty also requested that the hearing be continued to a later date, stating that it did not receive the Commission's February 6, 2017 Order that initiated this proceeding ("February 6, 2017 Order"), and thus would have limited time to prepare for a hearing on March 29.

Liberty owns and operates a gas distribution system, which is subject to Commission jurisdiction pursuant to KRS 278.495(2) and KRS 278.992(1). In the February 6, 2017 Order, the Commission established this proceeding to investigate Liberty's alleged failure to comply with federal requirements for periodic leakage surveys set forth in 49 C.F.R. Section 192.723(b)(1), 49 C.F.R. Section 192.723(b)(2), and 49 C.F.R. Section 192.605(a). The February 6, 2017 Order scheduled a hearing on March 29, 2017, for the purpose of Liberty presenting evidence concerning the alleged

violations and showing cause why it should not be subject to the penalties prescribed in KRS 278.992(1) for these alleged violations.

The Commission finds that Liberty has set forth good cause to continue the hearing, which will be rescheduled to Wednesday, April 5, 2017.

The Commission further finds that Liberty's request for an informal conference should be denied. As referenced in the February 6, 2017 Order, Liberty was cited for failure to perform and document leakage surveys in 2007, in 2009, in 2015, and in 2016. Additionally, Liberty admitted, in its response to data requests in Case No. 2016-00391<sup>1</sup>, that it had not performed leakage surveys between 2009 and 2016. The Commission finds that a formal hearing is necessary given the nature, repeat occurrences, and potential consequences of the alleged violations.

The Commission also finds that *prima facie* evidence exists that Liberty has failed to retain records of leakage surveys as required by federal and state law. As referenced in the February 6, 2017 Order, there is a discrepancy between the 2012 Inspection Report, in which Commission Staff found that Liberty had complied with leakage survey requirements, and the 2015 Inspection Report, in which Commission Staff reported that the leakage surveys had not been conducted since 2009. In its Response, also filed on March 7, 2017, Liberty states that it does not have records to explain the discrepancy, but that an employee, who is now deceased, may have conducted the required leakage surveys. Pursuant to 49 C.F.R. Section 192.603(b) and 807 KAR 5:022, Liberty is required to retain copies of leakage surveys. For this reason, the Commission finds that the February 6, 2017 Order should be amended to reflect

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<sup>1</sup> Case No. 2016-00391, *Investigation Into Compliance of City of Liberty Gas Company with KRS 278.495 and 49 CFR Part 192* (filed December 21, 2016), Liberty's Response to Data Requests, paragraphs 3, 4, 8, 10.

Liberty's potential violation of 49 C.F.R. Section 192.603(b) and 807 KAR 5:022 regarding an alleged failure to retain records of leakage surveys.

Further, the Commission finds that its Order entered February 28, 2017, establishing a schedule for the filing of witness and exhibit lists should be amended.

IT IS THEREFORE ORDERED that:

1. Liberty's motion to schedule an informal conference is denied and its motion to continue hearing is granted.
2. The formal hearing scheduled for March 29, 2017, is rescheduled to April 5, 2017, at 9:00 a.m. Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.
3. Ordering paragraph 2 of the Order entered on February 6, 2017, is amended to reflect that Liberty shall appear at a hearing on April 5, 2017, for the purpose of presenting evidence concerning the alleged violations of 49 C.F.R. Section 192.723(b)(1), 49 C.F.R. Section 192.723(b)(2), 49 C.F.R. Section 192.605(a), 49 C.F.R. Section 192.603(b) and 807 KAR 5:022.
4. All other provisions of the Commission's February 6, 2017 Order shall remain in full force and effect.
5. Ordering paragraph 4 of the Order entered on February 28, 2017, is amended to reflect that on or before March 27, 2017, Liberty shall tender a list of exhibits that it intends to offer at the April 5, 2017 hearing in this matter.
6. Ordering paragraph 5 of the Order entered on February 28, 2017, is amended to reflect that on or before March 27, 2017, Liberty shall tender a list of

witnesses and a summary of each witness's expected testimony that will be presented at the April 5, 2017 hearing in this matter.

7. Liberty shall file within seven days of the date of this Order its written response to the allegations set forth above of potential violations of 49 C.F.R. Section 192.603(b) and 807 KAR 5:022 regarding an alleged failure to retain records of leakage surveys.

8. All other provisions of the Commission's February 28, 2017 Order shall remain in full force and effect.

By the Commission



ATTEST:

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